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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,708	03/01/2004	Laurence Thompson	T-4290	6816
42556	7590	03/30/2006	EXAMINER	
CHARLES H. THOMAS CISLO & THOMAS LLP 4201 LONG BEACH BLVD SUITE 405 LONG BEACH, CA 90807-2022			GREENE, JASON M	
			ART UNIT	PAPER NUMBER
			1724	
DATE MAILED: 03/30/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/788,708

Applicant(s)

THOMPSON ET AL.

Examiner

Jason M. Greene

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-26 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/1/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
It does not identify the citizenship of each inventor. Specifically, it does not identify the citizenship of inventor Kevin Carlson.

Claims

2. With regard to claim 2, the Examiner suggests Applicants rewrite the phrase "Claim 1further" in line 1 as "Claim 1 further" to correct an apparent typographical error.
3. With regard to claim 15, the Examiner suggests Applicants rewrite the phrase "said filter cartridge cap" in line 10 as "said filter cartridge lid" to preserve consistency of terminology and to clarify antecedent basis for the phrase "said filter cartridge lid roof" in line 13.

Allowable Subject Matter

4. Claims 1-26 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter:

With regard to claims 1-14, Borders et al. (US 5,860,708) discloses a hubcap breather assembly for mounting in an access opening (40) in a hubcap end wall to seal lubricated wheel bearings in an automotive vehicle comprising a resilient, annular collar (30) having a radial exterior surface configured to fit within said access opening in fluid-tight sealed engagement therewith and a radial interior surface configured to form a filtration cartridge seat (42), a filter cartridge cup (50) having an open outboard mouth, an annular peripheral wall (54), and a transverse inboard floor (formed by the inboard surface of barrier wall 62) with at least one breather port (60) defined therethrough, and said filter cartridge cup is seated upon said filtration cartridge seat, a filter cartridge lid (90) having a transverse roof with at least one vent opening (106) therein and a peripheral rim (104) engaged with said filter cartridge cup mouth to define a filter cartridge chamber (98) within the confines of said filter cartridge cap and said filter cartridge lid, and a hydrophobic, gas-permeable, particulate matter filter (84) disposed within and extending entirely across said filter cartridge chamber in Figs. 3-7 and col. 3, line 21 to col. 5, line 42. However, Borders et al. teaches the peripheral rim (102) of the filter cartridge lid having a plurality of side slots (102) for admitting air into chamber 100.

The prior art made of record does not teach or fairly suggest the hubcap breather assembly of claim 1 wherein the peripheral rim of the filter cartridge lid is engaged in fluid-tight sealed relation with the filter cartridge cup mouth.

With regard to claims 15-24, Borders et al. (US 5,860,708) discloses a vented hubcap end closure device for sealing lubricated wheel bearings in an automotive vehicle comprising a resilient, annular collar (30) having a radial outer periphery configured for fluid-tight sealing engagement in a wheel bearing plug opening in an end wall of an automotive vehicle wheel hubcap (32) and a radial inner wall (42) configured to seat a filter unit, wherein said filter unit is comprised of a filter cartridge cup (50) having a radial outer periphery (54) seated against said inner wall of said collar, an outboard rim (not numbered) forming an open mouth, and a transverse inboard floor (formed by the inboard surface of barrier wall 62) with at least one breather port (60) defined therethrough, a filter cartridge lid (90) secured (at 92b) to said outboard rim of said filter cartridge cup and having a transverse roof that defines a filter cartridge chamber (98) located between said filter cartridge cup floor and said filter cartridge lid roof and said roof has at least one vent opening (106) defined therethrough, and a filtration device (84) extending transversely and entirely across said filter cartridge chamber whereby said filtration device serves as a barrier to the passage of moisture and particulate matter between said at least one vent opening and said at least one breather port in Figs. 3-7 and col. 3, line 21 to col. 5, line 42.

The prior art made of record does not teach or fairly suggest the vented hubcap end closure device of claim 15 wherein the filter cartridge lid is in fluid-tight sealing engagement with the collar.

With regard to claims 25 and 26, Borders et al. (US 5,860,708) discloses a vented hubcap closure assembly for closing a wheel end bearing chamber containing a fluid lubricant and located behind a hubcap end wall that has a central axial plug opening (40) therein comprising a resilient, annular collar (30) inserted into said plug opening and having a radial, outer wall surface that establishes a fluid-tight seal with said hubcap end wall at said central, axial opening therein, and a radial inner wall surface (42), an inboard filter cartridge cup (50) having a radial outer wall (54) with longitudinal outboard and inboard ends with a radial outer surface, a floor (formed by the inboard surface of barrier wall 62) extending across said inboard end of said filter cartridge cup, and a central, axial breather port (60) defined through said filter cartridge cup floor, a filter cartridge lid (90) seated in said cup and having an annular rim and a central roof having at least one vent opening (106) therein, and a filter cartridge chamber (98) is formed between said roof of said filter cartridge lid and said floor of said filter cartridge cup, and a filtration structure (84) extending entirely across said filter cartridge chamber and held in position by said filter cartridge cup and said filter cartridge lid, wherein said filtration structure permits the free passage of air therethrough and excludes the passage of water and particulate matter in Figs. 3-7 and col. 3, line 21 to col. 5, line 42.

The prior art made of record does not teach or fairly suggest the vented hubcap closure assembly of claim 25 wherein radial inner wall surface of the collar has an annular gripping ring defined thereon, the radial outer surface of the cup resides in fluid-tight sealed engagement with the inner radial wall of the resilient collar and is immobilized from longitudinal movement by the gripping ring, or the lid is seated in the collar and has an annular rim disposed in fluid-tight sealing engagement through with the inner wall surface of the annular collar.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Tago, Kuck '117, Peisker et al., Slesinski et al., Cobb, Thornton et al. and Goglio et al. disclose similar assemblies.

7. This application is in condition for allowance except for the above noted formal matters.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.


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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Greene whose telephone number is (571) 272-1157. The examiner can normally be reached on Monday - Friday (9:00 AM to 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason M. Greene
Primary Examiner
Art Unit 1724


3/25/06

jmg
March 25, 2006